

Fair Political Practices Commission
MEMORANDUM

To: Chairman Johnson and Commissioners Hodson, Huguenin, Leidigh,
and Remy

From: Carla Wardlow, Chief, Technical Assistance Division
Hyla P. Wagner, Senior Commission Counsel, Legal Division
Scott Hallabrin, General Counsel

Subject: Prenotice Discussion of Proposed Regulation 18420.5 – Campaign Filing
Schedule for the February 5, 2008 Primary Election

Date: April 24, 2007

Proposed Commission Action: Approve for possible adoption in August Regulation 18420.5 clarifying the filing schedule for state ballot measures that may be on the February 5, 2008 election.

Reason for Proposal: California's presidential primary election next year has been moved forward from June to February 5, 2008. It is likely that there will be state ballot measures on that ballot, though it is not expected there will be any state candidates on the ballot (they will still run in June). Commission staff and members of the regulated community agree that the February 5 election date requires modification of the campaign filing schedule. The Act's report filing deadlines are designed around the June primary and November general elections (Section 84200.7), with special deadlines for filing preelection statements for elections not held in June or November. (Section 84200.8)

Committees generally file *semiannual campaign statements* with a closing date of December 31 and June 30. Committees involved in an election are required to file the *first preelection statement* 40 days prior to the election and the *second preelection statement* 12 days before the election. A committee that is active in an election (contributes more than \$10,000) but does not otherwise have filing obligations for that election is required to file a *supplemental preelection report* due 12 days before the election.

Without changes, the early February 5 election date results in an awkward and inconvenient filing schedule:

Filing Schedule with No Changes

Statement	Period Covered	Filing Deadline
First preelection	Last report filed – Dec. 22, 2007	December 27, 2007
Semiannual	December 23 - December 31, 2007	January 31, 2008
Second preelection	January 1 - January 19, 2008	January 24, 2008

Problems with the above filing schedule are: the required preelection reports fall too close to the semiannual report; the semiannual report covers just nine days and is filed after the second preelection report but discloses information from an earlier period; the first preelection report is due December 27, two days after Christmas; and the requirement for other committees active in supporting measures to file supplemental preelection statements is inadvertently eliminated.¹ Given these problems, the FPPC has met with members of the regulated community and is seeking urgency legislation modifying the filing dates for the February 5, 2008 primary. The filing dates in the legislative proposal are as follows:

Legislative Proposal Filing Schedule

Statement	Period Covered	Filing Deadline
First Preelection	Last Report Filed – Dec. 15, 2007	December 20, 2007
Second Preelection/ Semiannual	December 16, 2007 - January 19, 2008	January 24, 2008

Recognizing the short timetable for passage of legislation, we want to be sure to have a workable filing schedule in place for the February 5, 2008 election. The FPPC proposes to have the attached regulation ready for adoption in August, as a backup in case legislation is not in place.

Summary of Regulation: The Commission has the authority to combine the campaign reports committees must file. (Section 84205.) Combining two statements, proposed regulation 18420.5 results in the following filing schedule:

Regulation 18420.5 Filing Schedule

Statement	Period Covered	Filing Deadline
First Preelection/ Semiannual	Last Report Filed - December 31, 2007	January 5, 2008
Second Preelection	January 1 - January 19, 2008	January 24, 2008

The filing schedule in the legislative proposal gives earlier disclosure by moving up the due date for the first preelection statement to December 20, 2007. The regulation proposes different dates than the legislation because, though the Commission clearly has the authority to combine reports (as the regulation does using the reporting period covered by the semiannual report), it would be preferable to seek legislation to move the first preelection report to December 20 and change the period covered. However, the filing schedules in both the legislation and the proposed regulation are more practical than the unchanged filing schedule.

¹ Section 84202.5(b) provides that committees are not required to file supplemental preelection reports during any semiannual period in which the committee is required to file preelection statements under Section 84200.5. Because the committees are required to file preelection statements in connection with the June state primary, committees active in the February 5 ballot measure election might assert that they were not required to file supplemental preelection statements for the February election.

Paragraph (a) of the regulation combines two statements and sets the new filing dates. Paragraph (b) pulls back in the supplemental preelection report filing requirement, which was inadvertently bumped due to the February election date. Paragraphs (c) and (d) state that the adjusted filing dates apply to political party committees and slate mailer organizations active in the February 5, 2008 election.

Recommendation: Staff recommends that the Commission approve regulation 18420.5 for adoption, if necessary, at its August meeting.